

U.S. Department of Justice



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August 9, 2005

Honorable Gregory M. Sleet
United States District Judge
J. Caleb Boggs Federal Building
844 N. King Street, Room 4324
Lockbox 19
Wilmington, DE 19801

Re: United States v. Metal Masters
Civil Action No. 05-430-GMS

Dear Judge Sleet:

The United States of America, on behalf of the United States Environmental Protection Agency, respectfully moves this Court to enter the proposed Consent Decree between the United States and Metal Masters Foodservice and Equipment Company, Inc. ("Metal Masters").

On June 24, 2005, the United States filed a Complaint in the matter pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9607(a), for reimbursement of response costs incurred by the United States in connection with property known as the Tyler Site located at 655 Glenwood Avenue in Smyrna, Delaware. Simultaneously with the filing of the Complaint, the United States lodged with the Court a proposed Consent Decree that would settle its claims against Metal Masters.

Entry of this Decree by the Court will resolve all pending claims between the United States and Metal Masters regarding the Tyler Pit Site, and indeed all potential claims the United States has identified at this time with respect to the Site. In addition, as set forth in Section IX, Paragraph 15, the proposed Consent Decree is intended to provide protection to Metal Masters against contribution actions or claims, as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f), for the matters addressed by the Decree.

Pursuant to 28 C.F.R. § 50.7, and as provided in Section 27 of the proposed Consent Decree, on July 7, 2005, the United States published notice of the Consent Decree in the Federal Register and solicited public comments for thirty days. *See* 79 Fed. Reg. 39335 (2005). The public comment period has expired and no comments have been received.

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The United States concludes that the proposed Consent Decree is fair, reasonable and in the public interest. See, e.g., United States v. Cannons Eng'g Corp., 899 F.2d 79, 84 (1st Cir. 1989).

For the above reasons, the United States respectfully requests that the Court electronically "sign" the proposed Consent Decree (a signature block for the Court's execution is contained on page 20 of the Decree), entering it as an Order of the Court.

Respectfully submitted,

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